

United States District Court

for the

Western District of New York

United States of America

v.

Case No. 22-MJ-694

KYLE BERTRAND,

Defendant

CRIMINAL COMPLAINT

I, Special Agent Bradford Price, Federal Bureau of Investigation, the complainant in this case, state that the following is true to the best of my knowledge and belief:

From approximately October 31, 2021 through February 16, 2022 in the Western District of New York and elsewhere, the defendant did knowingly devise and intend to devise a scheme to defraud individuals, and to obtain money and property from individuals, by means of false pretenses, representations and promises, and for the purpose of executing the scheme:

1. Did transmit, and cause to be transmitted by wire in interstate commerce, writings, signs, and signals, in violation of 18 U.S.C. § 1343; and
2. Did place in a post office and authorized depository for mail matter, matter and things to be sent and delivered by the Postal Service; did deposit, and cause to be deposited, matter and things to be sent and delivered by private and commercial interstate carrier; and did knowingly cause to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, matter and things, in violation of 18 U.S.C. § 1341;

This Criminal Complaint is based on these facts: **SEE AFFIDAVIT OF SPECIAL AGENT BRADFORD PRICE.**

Continued on the attached sheet.



Complainant's signature
BRADFORD PRICE, Special Agent, FBI

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim. P. 4.1 and 4(d) on:

Date: October 11, 2022

City and State: Rochester, New York



Judge's signature
MARK W. PEDERSEN
UNITED STATES MAGISTRATE JUDGE

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

BRADFORD PRICE, being duly sworn, deposes and states:

INTRODUCTION

1. I have been a Special Agent with the Federal Bureau of Investigation (FBI) since 2004. I am currently assigned to the White-Collar Squad, Buffalo Division, in Rochester, New York. I have participated in numerous criminal investigations involving violations of federal criminal law, including investigations involving mail and wire fraud as defined by 18 U.S.C. §§ 1341 and 1343.

2. I make this affidavit in support of a criminal complaint charging KYLE BERTRAND with mail and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343. This affidavit is based upon my personal knowledge and involvement in this investigation, my review of documents and records, and information provided by other law enforcement agents, witnesses, and private companies.

3. Because this affidavit is submitted for the limited purpose of establishing probable cause to support a criminal complaint, I have not included each and every fact known to me concerning this investigation. Rather, I have set forth those facts that I believe

are relevant and necessary to establish probable cause to believe that BERTRAND has violated 18 U.S.C. §§ 1341 and 1343.

4. From approximately October 2021 through approximately February 2022, BERTRAND was involved in various social media and online forums in which participants buy, sell, and trade collectible sports cards, such as baseball cards. While in these forums and groups, BERTRAND advertised that he had collectible sports cards that he claimed to be for sale and attempted to purchase sports cards that were being sold by other participants.

5. As detailed below, BERTRAND executed a scheme in which he defrauded individuals by advertising sports cards for sale that BERTRAND either never possessed or never intended to deliver. In such instances, BERTRAND advertised sports cards online that were collectible in nature and valued highly within the community of sports card collectors. BERTRAND's advertisements appeared legitimate, containing appropriate information and images of the cards, leading prospective buyers to believe that BERTRAND actually possessed the cards. When contacted by an interested buyer, BERTRAND negotiated a sale price, and then directed the buyer to send payment by wire to BERTRAND through a mobile payment service. After BERTRAND received the payment, he would send the buyer (also by wire) confirmation that the cards had been shipped. Instead of shipping the cards, BERTRAND mailed buyers empty boxes or cards of negligible value. In other instances, BERTRAND stole collectible cards from sellers, by contacting individuals who were selling sports cards online, negotiating a purchase price for the cards, and making payment to the sellers via credit card through a credit card processing service. The sellers, who lived in

various states outside of New York, would mail the cards in interstate commerce to BERTRAND in the Western District of New York. Once BERTRAND received the cards, he would dispute his credit card payment through the credit card company, revoking the payment issued to the seller. In these cases, the sellers were deprived of their property without payment from BERTRAND.

BERTRAND'S SCHEME TO DEFRAUD VICTIM SPORTS CARD SELLERS

6. On October 31, 2021, VICTIM 1, living in the state of Florida, was contacted on the social media platform TikTok by user @kbert2021 after VICTIM 1 displayed various collectible sports cards for sale on TikTok. TikTok is a mobile messaging and video application that operates in interstate and foreign commerce via the internet. It allows users to exchange messages, images, videos and other media. TikTok's servers are hosted outside of New York State and therefore communications from any state to New York State travel in interstate commerce. @kbert2021 negotiated a purchase price of approximately \$6,010 for VICTIM 1's cards. VICTIM 1 then sent invoices for this amount to BERTRAND using the payment application "Square." Square is an internet based mobile payment application that allows individuals to conduct credit card transactions. In this case, the application was commonly used by sellers of sports cards to collect payment from purchasers via credit or debit card. According to VICTIM 1, BERTRAND initially appeared to accept the invoice and make payment to VICTIM 1 using a credit card via the Square application. BERTRAND then provided VICTIM 1 his mailing address of 165 Colin St, Rochester, NY 14615. On November 1, 2021, VICTIM 1 mailed the cards in interstate commerce from Florida using

Fedex, to BERTRAND's home in New York, and provided a mail package tracking number to BERTRAND.

7. VICTIM 1 reported that by November 9, 2021, BERTRAND disputed the credit card transactions, revoking BERTRAND's payment for VICTIM 1's sports cards. VICTIM 1 contacted BERTRAND via social media and questioned why BERTRAND was not paying for the cards. BERTRAND claimed to have no knowledge of the disputes and refused to return the sports cards to VICTIM 1. VICTIM 1 continued to contact BERTRAND, who became unresponsive, and neither made payment nor returned the sports cards to VICTIM 1.

8. BERTRAND is currently serving a term of supervised release following fraud and identity theft convictions from 2017 in the Western District of New York. According to United States Probation, 165 Colin St. is BERTRAND's actual home address. I reviewed publicly available videos posted by TikTok user @kbert2021, which depict BERTRAND dancing and talking about cryptocurrency, among other things.

9. On November 3, 2021, VICTIM 2, residing in the state of Ohio, was contacted by BERTRAND using the @kbert2021 profile seeking to purchase sports cards that VICTIM 2 was offering for sale. As before, BERTRAND negotiated a purchase price in the amount of \$4,200 for the cards. VICTIM 2 sent an invoice to BERTRAND using Square, which BERTRAND initially appeared to accept and pay. BERTRAND provided VICTIM 2 his full name "Kyle Bertrand" and his mailing address of 165 Colin St, Rochester, NY 14615 for shipment of the cards. VICTIM 2 mailed the cards to BERTRAND in interstate commerce

from Ohio to New York using the US Postal Service and provided a mail package tracking number to BERTRAND.

10. By November 4, 2021, VICTIM 2 learned that BERTRAND had revoked his payment for the cards. VICTIM 2 contacted BERTRAND via the social media platform Instagram at username “kbert2021 – Kyle Bertrand” to inform BERTRAND that the credit card transactions had been disputed, and that he could not collect BERTRAND’s payments. BERTRAND again claimed to have no knowledge of the disputes, and did not pay VICTIM 2 or return the cards.

11. I reviewed publicly available images of Instagram user “kbert2021- Kyle Bertrand,” which show BERTRAND engaged in the sale of sports trading cards. According to VICTIM 2, two of the posts, which are still viewable on Instagram, dated November 5, 2021, show BERTRAND selling VICTIM 2’s sports cards to other buyers.

12. Another instance occurred on November 19, 2021, when VICTIM 3, residing in Florida, was contacted by BERTRAND via his Instagram username “kbert2021” regarding sports trading cards that VICTIM 3 was offering for sale. As before, BERTRAND negotiated purchase prices for the cards for a total of approximately \$20,000.00. VICTIM 3 sent invoices to BERTRAND using Square, which BERTRAND initially appeared to accept and pay, using a credit card that BERTRAND provided to VICTIM 3. BERTRAND also provided VICTIM 3 his full name and mailing address of 165 Colin St, Rochester, NY 14615 for shipment of the cards. On November 20, 2021, VICTIM 3 mailed out the first of the agreed upon cards using the US Postal Service.

13. On approximately December 16, 2021, VICTIM 3 contacted BERTRAND via BERTRAND's Instagram account "kbert2021 – Kyle Bertrand" to inform BERTRAND that the credit card transactions had been disputed, and that he could not collect BERTRAND's payments. BERTRAND denied any of the disputes and refused to return VICTIM 3's cards. VICTIM 3 then engaged in a recorded phone call with BERTRAND. During the call, BERTRAND claimed that he had returned a portion of the cards that were in dispute to VICTIM 3 and offered to call Square with VICTIM 3 in an attempt to resolve the credit card charge dispute. BERTRAND never made payment nor returned these cards to VICTIM 3.

BERTRAND'S SCHEME TO DEFRAUD VICTIM SPORTS CARD BUYERS

14. On approximately December 14, 2021, VICTIM 4, residing in the state of California, contacted BERTRAND via Facebook. BERTRAND, utilizing the Facebook username "Kyle Bertrand," was advertising various sports trading cards for sale. VICTIM 4 and BERTRAND negotiated a purchase price of approximately \$2,100 for certain agreed upon cards, and VICTIM 4 wired this amount in interstate commerce to BERTRAND using the online money transfer application PayPal. BERTRAND then agreed to ship the cards to VICTIM 4 in California. Records obtained from Paypal show that VICTIM 4 made the payment to BERTRAND in the amount of \$2,100 on December 15, 2021. IP information contained in the records further show that BERTRAND was physically located in New York at the time that the transfer was made, and that BERTRAND immediately transferred the payment to his Visa credit card, in a likely effort to prevent VICTIM 4 from disputing the purchase and retrieving his money.

15. On approximately December 20, 2021, VICTIM 4 received a package via the U.S. Postal Service, with a return address of: "Kyle Bertrand, 15 Colin St, Rochester, NY 14615," which contained cards of negligible value instead of the cards that BERTRAND advertised.

16. VICTIM 4 contacted BERTRAND via Facebook demanding that BERTRAND return his money. According to VICTIM 4, BERTRAND apologized for the incident, but refused to return payment, or send the cards to VICTIM 4. BERTRAND stopped responding to VICTIM 4's communications. VICTIM 4 never received the agreed-upon cards or a refund of his money.

17. Your affiant has reviewed Facebook profile "Kyle Bertrand", which contains various photos of BERTRAND. Additionally, records obtained from Facebook for this profile show it to be registered to KYLE BERTRAND, telephone number (585)520-3980. Other records obtained in this case confirm that (585)520-3980 is in fact BERTRAND's phone number.

18. On January 11, 2022, VICTIM 5, residing in the state of Missouri, contacted BERTRAND on Facebook, in response to an ad that BERTRAND posted offering certain sports cards for sale. BERTRAND negotiated a purchase price with VICTIM 5 in the amount of \$600 for certain cards, after which VICTIM 5 wired this amount in interstate commerce to BERTRAND using the online money transfer application CashApp. BETRAND agreed to ship the cards to VICTIM 5 in interstate commerce to Missouri. On approximately January

13, 2022, VICTIM 5 received an empty package via United Parcel Service (UPS) from Bertrand with return address: "Kyle Bertrand, 4413 Acorn Ct, Davenport, FL 33837."

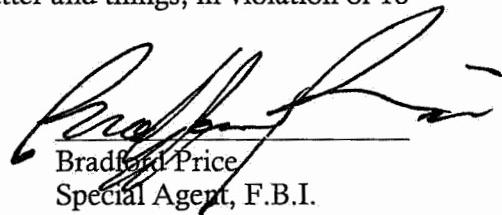
19. VICTIM 5 attempted to secure a refund through CashApp but was unsuccessful. VICTIM 5 never received the correct cards or a refund from BERTRAND.

20. On February 15, 2022, VICTIM 6, residing in the state of Pennsylvania, contacted BERTRAND on Facebook seeking to purchase various sports trading cards that BERTRAND claimed to be selling. VICTIM 6 and BERTRAND negotiated a purchase price of approximately \$450 for certain agreed upon cards. VICTIM 6 wired this amount in interstate commerce to BERTRAND using the online money transfer application Venmo, username "@kyle-bertran – Kyle Bertran," and BERTRAND agreed to ship the cards to VICTIM 6 in Pennsylvania. Records obtained from Venmo for this account showed that BERTRAND was the owner, and reflected an incoming payment to BERTRAND from VICTIM 6 on February 15, 2022. On approximately February 16, 2022, VICTIM 6 received an empty package from BERTRAND via UPS with a return address of: "Kyle Bertrand, 4413 Acorn Ct, Davenport, FL 33837." VICTIM 6 attempted to contact BERTRAND via telephone, but BERTRAND was unresponsive.

21. Meta Platforms Inc., which is the platform for both Instagram and Facebook, has no servers located in the states of New York, California, Pennsylvania or Florida. Accordingly, communications that took place via those platforms traveled in and affecting interstate commerce.

CONCLUSION

22. Based on the foregoing, there is probable cause to believe that BERTRAND did knowingly devise and intend to devise a scheme to defraud individuals, and to obtain money and property from those individuals, by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing the scheme, did transmit, and cause to be transmitted by wire in interstate commerce, writings, signs, and signals, in violation of 18 U.S.C. § 1343; and did place in a post office and authorized depository for mail matter, matter and things to be sent and delivered by the Postal Service; did deposit, and cause to be deposited, matter and things to be sent and delivered by private and commercial interstate carrier; and did knowingly cause to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, matter and things, in violation of 18 U.S.C. § 1341.



Bradford Price
Special Agent, F.B.I.

Affidavit submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on this 11 th day of October 2022.



HON. MARK W. PEDERSEN
UNITED STATES MAGISTRATE JUDGE